



PAUL R. LePAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
LAND USE PLANNING COMMISSION
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0022

WALTER E. WHITCOMB
COMMISSIONER

NICHOLAS D. LIVESAY
EXECUTIVE DIRECTOR

DEVELOPMENT PERMIT DP 4976

The staff of the Maine Land Use Planning Commission, after reviewing the application and supporting documents submitted by Patrick Ricci, for Development Permit DP 4976, finds the following facts:

1. Applicant: Patrick Ricci
1482 Mattamiscontis Road
Mattamiscontis, ME 04457
2. Date of Completed Application: June 12, 2015
3. Location of Proposal: Mattamiscontis Township, Penobscot County
Lot #2 on Plan 01
4. Zoning: (M-GN) General Management Subdistrict
(P-SL2) Shoreland Protection Subdistrict
(P-WL1) Wetland Protection Subdistrict
(P-WL2) Wetland Protection Subdistrict

Note: While the subject property includes various zoning subdistricts, the proposed activity lies wholly within the (M-GN) General management Subdistrict

5. Lot Size: 57 Acres

Existing Conditions

6. The applicant's lot is currently developed with an approximately a 5.3 acre, pre-Commission gravel and sand pit. The applicant's property encompasses a gravel esker of approximately 30 acres and is bordered to the east by Mattamiscontis Stream. The existing and proposed extraction areas are accessed by an existing pre-Commission gravel roadway. The roadway and extraction areas are greater than 250 feet from the normal high water mark of Mattamiscontis Stream. The applicant estimates the volume of gravel and other aggregate to be approximately 5 to 6 million cubic yards. The existing extraction area is internally drained.

Proposal

7. The applicant now proposes to continue operation of the gravel pit, and to expand the pit by approximately 17.2 acres, bringing the total affected area of extraction to approximately 22.5 acres. The proposed extraction area would occur within the (M-GN) General Management Subdistrict, and is greater than 250 feet from Mattamiscontis Stream. The extracted material is to be used for

construction of roads, driveways, and other ground work. The extraction activities will remain at least 250 feet from neighboring property lines, and at least 250 feet from the existing stream.

8. The applicant proposes to reclaim depleted extraction areas such that there is no more than 15 acres of unreclaimed active extraction area at any given time. Reclamation will be accomplished by leveling or sloping the area to a maximum slope of 3 horizontal to 1 vertical and stabilizing with loam and natural vegetation as the extraction area is depleted and the operation moves on to a fresh extraction area. The highest point of lift would be 75 feet. The pit will be internally drained, and will be maintained in a manner as to prevent erosion and off-site sedimentation through the use of Best Management Practices (BMPs) including sediment barriers, water bars, drainage ditches, level spreaders, ditching, and stabilization with vegetation. Vegetated cover will include a combination of grasses and woody vegetation of deciduous and coniferous species. Topsoil removed during the extraction process will be stockpiled and seeded to grass for later use during reclamation of the pit.
9. The applicant proposes to fully reclaim the property after depletion of the approved extraction activity, with ongoing reclamation of extracted areas each season as described in paragraph 8 above, by grading slopes to a 3 vertical to 1 horizontal or flatter slope, replacing topsoil, and seeding and mulching the soils to establish ground cover vegetation and allow natural reforestation of the site.
10. The maximum depth of extraction will be maintained such that it is a minimum of 11 vertical feet above the seasonally high groundwater level. The seasonally high groundwater level will be established by excavating a test pit in late March or early April and establishing elevation reference markers on site.
11. At this time the applicant does not propose installing any bulk fuel storage on site and only proposes to fuel equipment with a 150 gallon transfer tank that rides in the back of a work truck.

Review Comments

12. The Maine Natural Areas Program reviewed the application and indicated that there are no known rare botanical features that would be disturbed within the project site.
13. The Maine State Hydrogeologist, Daniel Locke, reviewed the application and advised that the seasonally high groundwater level should be established in late March or early April. There shall be two measurements conducted 12 to 15 days apart. The highest recorded level of the two measurements will establish the season water table.
14. The Planning Division for the Land Use Planning Commission has reviewed the application and noted that mineral extraction activities in the (M-GN) General Management Subdistrict are an allowed use with a permit as long as the total affected area of the activity (including existing extraction areas) does not exceed thirty acres (30 ac.) and no more than 15 acres of extraction area are unreclaimed at any given time.
15. The Maine Department of Inland Fisheries and Wildlife (MDIFW) reviewed the application and identified that there is an active Inland Wading Bird and Water Fowl Habitat (IWWH) area adjacent to the proposed gravel pit expansion. MDIFW accepted the site plan within the application that demonstrated the expansion area not to be within the IWWH area. The only condition that MDIFW recommended was that the permittee stay out of the IWWH buffer.

16. The Maine Historic Preservation Commission has reviewed the application and concludes that the proposal will have no undue adverse effect upon historic properties. However if any construction or excavation is undertaken within 255 feet of the normal high water mark of Mattamiscontis Stream an archaeological survey will be required and shall be reviewed by the Maine State Historic Preservation Commission prior to construction activities.
17. The Department of Environmental Protection has expressed no concerns for the proposal. They only comment that within organized towns a working pit shall be no larger than 10 acres compare to the 15 acres in unorganized towns.
18. The Penobscot County Unorganized Territory Administration reviewed the application and expressed no concerns for the proposal.
19. The Maine Drinking Water Program reviewed the application and expressed no concerns for the proposal.
20. Maine State Soil Scientist, David Rocque, reviewed the application and offered the following comments;
 1. The applicant should determine the groundwater table depth so that they can limit excavation to 5 feet above it. They also should do a few spot checks to make sure of the gravel/sand depth, particularly near the outer margins of the proposed expansion area.
 2. I recommend the pit be internally drained to contain runoff and sediment. In areas where that may not be possible, proper erosion/sediment controls should be used (silt fence, erosion control mix, berms etc.).
 3. The applicant should have a spill control plan including a refueling site.
 4. The applicant should have a reclamation plan.

Review Criteria

21. Under the provisions of Section 10.22, A, 3, c, (12) of the Commission's Land Use Districts and Standards, mineral extraction operations affecting an area between 5 and 30 acres are allowed in the (M-GN) General Management Subdistrict upon issuance of a permit, provided the unreclaimed area is less than 15 acres.
22. The facts are otherwise as represented in Development Permit Application DP 4976 and supporting documents.

Based upon the above Findings, the staff concludes that, if carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, Section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

Therefore, the staff approves the application of Patrick Ricci with the following conditions:

1. The Standard Conditions for Development Permits a copy of which is attached.
2. All major erosion and sedimentation control structures, such as ditches, culverts, sediment traps, settling basins, and silt fences, must be installed prior to commencement of construction. Once implemented or put in place, erosion control devices and measures shall be maintained to ensure proper functioning.

3. A vertical separation of 5 feet shall be maintained between extraction activities and the seasonally high groundwater table as established in the project area.
4. Expansion of the gravel pit shall remain at least 250 feet from property boundary lines, and 255 feet from Mattamiscontis Stream.
5. Expansion of the gravel pit shall remain out of the Maine Department of Inland Fisheries and Wildlife mapped IWWH buffer as identified within the plan submitted with this application.
6. Expansion of the gravel pit shall remain out of historical properties identified by the Maine Historic Preservation Commission to be within 255 feet of the normal high water mark of Mattamiscontis Stream identified within the plan submitted with this application.
7. Prior to the excavation of the permitted gravel pit expansion, the permittee shall have a Maine Licensed Surveyor prepare a plat and flag the site to identify the boundaries of the Maine Department of Inland Fisheries and Wildlife IWWH buffer and the historical properties identified by the Maine Historic Preservation Commission to be within 255 feet of the normal high water mark of Mattamiscontis Stream.
8. As recommended by the Maine State Hydrogeologist the permittee shall conduct two measurements to confirm the seasonally high groundwater level in late March or early April, conducted 12 to 15 days apart. The highest recorded level of the two measurements will establish the season water table. A reference point and elevation reference mark shall be noted within the prepared plat that is to establish the boundaries of the Inland Fisheries and Wildlife IWWH buffer and the historical properties identified by the Maine Historic Preservation Commission.
9. As recommended by the Maine State Soil Scientist the pit shall be internally drained to contain runoff and sediment. The permittee shall follow remedial measure as submitted within the application and paragraph #8 and #9 of this permit.
10. The permittee and or land owner shall have a designed spill prevention plan if refueling is to occur with fuel from a bulk fuel tank stored on site. Refueling from a pickup transfer tank the permittee and or land owner shall fuel equipment outside of the working pit area on an area that contains fine soils and is surround by a small berm or has a slight depression. Spill pads should be readily available if a spill occurs. All spills shall be reported to the Maine Department of Environmental Protection. The permittee and or land owner shall identify a specific area for refueling on the plat prepared by a Maine Licensed Surveyor.
11. The permittee shall submit a copy of the prepared survey plat that establishes the boundaries of the Maine Department Inland Fisheries and Wildlife IWWH buffer, historical properties identified by the Maine Historic Preservation Commission, the reference point for where the seasonal ground separation is to be checked and an identified location that refueling of equipment will occur. The prepared plat shall also identify the existing pit and portions of the pit to be expanded.
12. Except for active extraction areas, all areas of disturbed soil must be promptly reseeded and stabilized with mulch, and maintained in a vegetated state to prevent soil erosion. In areas where revegetation is not initially successful, additional measures to control erosion and sedimentation shall be undertaken as often as necessary to be effective.

13. Should any erosion or sedimentation occur during construction, the permittee shall contact the Land Use Planning Commission immediately, notifying it of the problem and describing all proposed corrective measures.
14. Prior to installing bulk fuel storage within the gravel pit the permittee and or land owner shall contact the Maine Land Use Planning Commission.

This permit is approved only upon the above stated conditions and remains valid only if the permittee complies with all of these conditions. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT GREENVILLE, MAINE, THIS 13th DAY OF JULY, 2015.

By: _____



for Nicholas D. Livesay, Executive Director



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**STANDARD CONDITIONS OF APPROVAL
FOR ALL DEVELOPMENT PERMITS**

1. The permit certificate must be posted in a visible location on your property during development of the site and construction of all structures approved by this permit.
2. This permit is dependent upon and limited to the proposal as set forth in the application and supporting documents, except as modified by the Commission in granting this permit. Any variation therefrom is subject to the prior review and approval of the Maine Land Use Planning Commission. Any variation from the application or the conditions of approval undertaken without approval of the Commission constitutes a violation of Land Use Planning Commission law.
3. Construction activities authorized in this permit must be substantially started within two (2) years of the effective date of this permit and substantially completed within five (5) years of the effective date of this permit. If such construction activities are not started and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.
4. The recipient of this permit ("permittee") shall secure and comply with all applicable licenses, permits, and authorizations of all federal, state and local agencies including, but not limited to, natural resources protection and air and water pollution control regulations and the Subsurface Wastewater Disposal Rules of the Maine Department of Environmental Protection and the Maine Department of Human Services.
5. Setbacks of all structures, including accessory structures, from waterbodies, roads and property boundary lines must be as specified in conditions of the permit approval.
6. In the event the permittee should sell or lease this property, the buyer or lessee shall be provided a copy of the approved permit and advised of the conditions of approval. The new owner or lessee must contact the Land Use Planning Commission to have the permit transferred into his/her name and to reflect any changes proposed from the original application and permit approval.
7. The scenic character and healthful condition of the area covered under this permit must be maintained. The area must be kept free of litter, trash, junk cars and other vehicles, and any other materials that may constitute a hazardous or nuisance condition.
8. The permittee shall not advertise Land Use Planning Commission approval without first obtaining Commission approval for such advertising. Any such advertising shall refer to this permit only if it also notes that the permit is subject to conditions of approval.
9. Once construction is complete, the permittee shall notify the Commission that all requirements and conditions of approval have been met. The permittee shall submit all information requested by the Commission demonstrating compliance with the terms of the application and the conditions of approval. Following notification of completion, the Commission's staff may arrange and conduct a compliance inspection.

Administrative Policy Revised 04/04



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July 13, 2015

Applicant: Patrick Ricci
1482 Mattamiscontis Road
Mattamiscontis, ME 04457

RE: Approved LURC Development Permit DP 4976

Enclosed is a copy of Land Use Regulation Commission Development Permit DP 4976 for proposed activities in Sapling Township. Please read the enclosed permit carefully, paying special attention to the conditions of approval, as your permit is valid only if you comply with those conditions. Any changes in your plans or additional construction in the future must be reviewed and approved as an amendment to your permit.

Thank you for your patience and cooperation. Should you have any further questions or if we may be of any other assistance, please contact the East Millinocket Office at (207) 746-2244.

Sincerely,

Ted Wolfertz
Regional Representative
Permitting and Compliance Division

Enclosure: LUPC Development Permit DP 4976
Notice of Authorization to Proceed (Permit Certificate)
Standard Conditions Of Approval For All Development Permits

Xc: DP 4976 file